

KEVIN DITTRICH  
McFARLIN -v- WORD ENTERPRISES

June 19, 2017

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1 IN THE UNITED STATES DISTRICT COURT  
2 IN THE EASTERN DISTRICT OF MICHIGAN  
3 SOUTHERN DIVISION

4 CHAD McFARLIN, individually

5 and on behalf of all

6 similarly situated persons,

7 Plaintiff,

8 -v-

No. 2:16-cv-12536

9 Hon. Gershwin A. Drain

10 THE WORD ENTERPRISES, LLC,

11 et al.,

12 Defendants.

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15 The deposition of KEVIN DITTRICH,

16 Taken at 221 North Main Street, Suite 300,

17 Ann Arbor, Michigan,

18 Commencing at 10:13 a.m.,

19 Monday, June 19, 2017,

20 Before Cheryl McDowell, CSR-2662, RPR.

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1 drivers only when they are delivering or the entire  
2 time that they're working?

3 A. Only when they're delivering.

4 Q. Have any of your delivery drivers been paid on a tip  
5 credit method different than that?

6 A. Not to my understanding.

7 Q. Is there any reason that you, that you have to believe  
8 that they may been paid on a tip credit method  
9 different than that?

10 A. No.

11 Q. You said drivers are paid every two weeks?

12 A. Correct.

13 Q. All drivers?

14 A. Correct.

15 Q. Is that for all the Hungry Howie's locations you own?

16 A. I believe so. I have different accountants for  
17 different restaurants.

18 Q. What about the ones owned by The Word Enterprises, are  
19 those all serviced by the same accountant?

20 A. Yes.

21 Q. Are they all -- are all those drivers paid on a  
22 two-week basis?

23 A. Yes.

24 Q. How often are drivers reimbursed for vehicle expenses  
25 at the locations owned by The Word Enterprises

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1           collectively? When I say The Word Enterprises, I mean  
2           all of The Word Enterprises.

3   A. Well, they're not reimbursed. They have compensation  
4           on a nightly basis.

5   Q. Okay. What do you mean by that?

6   A. They get paid minimum wage plus so much per run, so,  
7           per address that they go to.

8   Q. And you're saying they're paid nightly?

9   A. Correct, for that delivery fee that they get  
10           reimbursed for or compensated for.

11   Q. So earlier you said that drivers at the St. Johns,  
12           Perry, and Haslett locations are paid on a per trip  
13           reimbursement rate, correct?

14   A. Correct.

15   Q. And that's seventy-five cents per trip?

16   A. It depends on which restaurant it is, but it's more  
17           than that in some cases like Perry if we're talking  
18           specifically.

19   Q. And Perry, if a delivery goes to the Laingsburg area,  
20           they're paid a dollar seventy-five?

21   A. Yes.

22   Q. Is this policy written down anywhere?

23   A. I would have to check on that, but today they're  
24           actually paid more than that.

25   Q. How much are they paid more than that?

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1 Q. So when you on a biweekly basis pull the records of  
2 each driver for that previous two-week period, do you  
3 assume that they've already been paid a certain amount  
4 of that?

5 A. We know that they've been paid a certain amount. Each  
6 and every night we'll know that they went over the  
7 threshold of minimum wage, and, if not, we would  
8 compensate them for it. But it's never happened.

9 Q. What do you mean?

10 A. I mean that the system that's set up has to pay the  
11 driver more than minimum wage at any time that they  
12 work. They're always paid more than minimum wage.  
13 They have to meet that threshold, the system.

14 Q. Is that a threshold that you set up that they had to  
15 pay more than minimum wage?

16 A. It's a threshold that's set up with our accountant  
17 that every delivery driver has to make at least  
18 minimum wage. So we will literally give them the  
19 money to make sure that they make it, but it doesn't  
20 happen to my knowledge.

21 Q. That they don't make it to minimum wage?

22 A. They always make more. They always make more than  
23 minimum wage.

24 Q. In tips?

25 A. We could be very specific and say with hourly wage,

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1 with tips, either through credit card or their cash  
2 that they now have to let us know nightly, the run  
3 charge, or when you take those variables into play,  
4 they always make more than minimum wage.

5 Q. What's the run charge?

6 A. That would be like your dollar a run to in town or  
7 your dollar seventy-five now, up to two twenty-five,  
8 to run to Laingsburg from Perry.

12 Q. So the run charge is the vehicle reimbursement that  
13 they're getting?

14 A. Compensation. I don't know if I'd call it vehicle  
15 reimbursement.

16 Q. And they receive that per each delivery that's made?

17 A. Correct.

18 Q. Not each trip?

19 A. Each delivery.

20 Q. Have you ever received any other complaints about  
21 those run charges or vehicle reimbursements being  
22 insufficient?

23 | A. No.

24 Q. You received one from Chad McFarlin and that's it?

25 A. No. No. Back up. I apologize. There were other